

claim 6, so they also recite this subject matter. Claims 9, 12, and 18 recite that the inquiry file has “patient data and medical treatment data ... *extracted from a database.*” Claim 13 describes a linkage system and claim 19 describes a computer, both of which have the elements of claim 1 quoted above.

According to the Office Action, Berman et al. teaches an “inquiry file creating means” in column 5, lines 38-55. (The claims now recite instead an “inquiry file *creator*,” but originally the claims recited “inquiry file *creating means*.” The implication is that the rejection relies on Berman et al. to teach an “inquiry file creator” as now recited in the claims.) The cited text discusses hardware and software, which can save a service request (a request relating to a medical procedure) into a file.

The Office Action does not clearly identify an “inquiry file” in Berman et al., and this element must be identified to justify the rejection. Thus, the rejection is not sufficiently justified for at least this reason alone. Even if the PTO relied on the service request of Berman et al. to anticipate an inquiry file (perhaps, the PTO intended to imply such reliance in the Office Action), the rejection would still be improper. Applicants elaborate as follows:

As quoted above, the claims specify that the inquiry file has patient data and medical treatment data *extracted from a database*. The rejection relies on Akers et al. to suggest modifying the Berman et al. system so that it would then have an inquiry file creator configured to create an inquiry file as claimed.

Thus, to support the rejection, if the PTO relies on the service request to anticipate an inquiry file, an Office Action must provide a proper reason why Akers et al. would supposedly have motivated someone to modify the Berman et al. system to create a service request by extracting data from a database. However, the only reasons provided in the Office Action are

that the modified system would yield improved integrity of patient data and that the continuity of data can be maintained. The Office Action cites paragraph [0009] of Akers et al. (on page 1) as supposedly supporting the holding of obviousness, but applicants respectfully respond that such citation is insufficient to support the holding.

Paragraph [0009] of Akers et al. does not imply that that data integrity in the Berman et al. system would be improved and that data continuity would be maintained, if the system were modified as discussed in the Office Action. Although paragraph [0009] states generally that the Akers et al. system maintains integrity and continuity of medical data, the cited paragraph does not say that the Akers et al. system maintains integrity and continuity *better than the Berman et al. system* maintains integrity and continuity. The Office Action provides no reason to think that the Berman et al. does not already use technology that maintains integrity and continuity as good as or even better than that used by Akers et al.

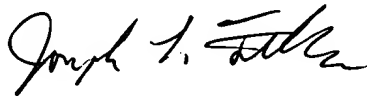
In other words, it is insufficient to justify a holding of obviousness by alleging that an improvement would result by merely citing a general prior art statement alleging that data integrity and continuity are maintained. (Although the cited text characterizes the Akers et al. as advantageous, it does not indicate which other systems, such as that of Berman et al., do not have the same advantages.) To justify holding that the modification would have provided an improvement, the Office Action would need to discuss how the elements absent from Berman et al. and present in Akers et al. are elements that would cause *increased* data integrity and continuity. Such discussion is not provided.

Accordingly, applicants respectfully submit that the rejection is not justified, and withdrawal thereof is hereby solicited.

Applicants further submit that the application is in condition for allowance. If it is believed that this application is not in condition for allowance, the Examiner is welcome to contact applicants' undersigned attorney at the telephone number indicated below to discuss resolution of remaining issues.

If this paper is not timely filed, applicants petition for an extension of time. The fee for the extension, and any other fees that may be due, may be debited from Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Joseph L. Felber
Attorney for Applicants
Registration No. 48,109
Telephone: (202) 822-1100
Facsimile: (202) 822-1111